IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.530 OF 2001

Gundu Dattu Sutar ...Appellant

Vs.

Sonaba Bapu Patil & Ors. ...Respondents

Ms Varsha Palav for the Appellant
Mr. P.D.Dalvi for the Respondent Nos. 1 to 5.

CORAM: A.S.OKA, J.

DATED: JANUARY 20,2005.

P.C.:

1. The Appeal is by the original Defendant. The decree is passed for perpetual injunction in favour of the Respondents-original Plaintiffs restraining the Appellant from causing obstruction to the possession of the Respondents over the land bearing Gat No.1027/1. The Respondents have been allotted the suit land in the resettlement scheme by the District Re-settlement Officer. The case of Appellant is that the land which is allotted to the Respondents is from Gat No.1027/2 and not from Gat No.1027/1. Reliance is placed on various documents including possession Panchnama to show that what was allotted to the Respondents was the land bearing Gat No.1027/2. The learned Counsel for the Appellant relying upon the various documents submitted that the documentary evidence clearly shows that the Respondents were

allotted the land bearing Gat No.1027/2.

2. The Trial Court has recorded a finding that the Appellant had filed Writ Petition No.6415 of 1995 in this Court in which grievance was regarding allotment of plot of land to the Respondent Nos.2 to 4 and predecessor of Respondent Nos.5 to 6 therein (who are the respondents in this Second Appeal). In this Writ Petition, averments were made by the Appellant to the effect that an area of one hectare 21 ares was acquired by the State Government from land bearing Gat No.1027/1 and the said area was allotted to the Respondents by order dated 18th August 1988. The documents which are annexed to the Writ Petition also show that the land out of Gat No.1027/1 was allotted to the Respondents. The said Writ Petition was rejected by this Court. The said Writ Petition proceeded on the footing that the land which is allotted to the Respondents is out of Gat No.1027/1. In view of the assertions made by the Appellant in the Writ Petition and rejection of the Writ Petition, now it is not open for the Appellant to contend that the land which was allotted to the Respondents was not from Gat No.1027/1.

3. In view of the matter, there is no merit in the Second Appeal. Second Appeal is dismissed with no order as to costs.

Judge.